

REMARKS

Claims 1 to 41 are currently pending in the case. The Applicants have amended Claims 1, 19 and 30 to particularly point out and distinctly claim the subject matter that the Applicants regard as their invention. The Applicants have cancelled Claims 10, 20 and 21, without prejudice. Support for the present amendments is found throughout the specification and claims, as originally filed. No new matter has been added and no claims fees are believed to be due. The Applicants strongly believe that the present Amendments, when reviewed in light of the below Remarks, have placed the present application in condition for allowance. Accordingly, timely and favorable action is respectfully requested.

Rejection under 35 USC § 112, Second Paragraph

The Examiner has rejected Claims 31 to 37 under 35 USC § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner has asserted that Claim 31, from which the balance of the rejected claims ultimately depend, recites the limitation "the adjunct ingredients," for which insufficient antecedent basis purportedly exists. The Examiner's attention is respectfully directed to the "Amendments" section of the instant paper, in which the Applicants have amended the aforementioned claim only to obviate the Examiner's rejection. In light of the Applicants' amendments, reconsideration and withdrawal of the rejection to Claims 31 to 37 under 35 USC §112, second paragraph, are respectfully requested.

Rejection under 35 USC § 102(b) over Lonza

The Examiner has rejected Claims 1 to 9, 11, 12, 28 to 33 and 35 to 37 under 35 USC § 102(b) as allegedly being anticipated by Lonza Ltd (hereinafter "Lonza"). Specifically, the Examiner asserts that Lonza teaches a composition for keeping flowers fresh, said composition comprising glucose and succinate as an energy source, quaternary ammonium as fungicide, succinic acid and citric acid as a buffer and additional ingredients.

The Examiner's attention is respectfully directed to the "Amendments" section of the instant paper, in which the Applicants have amended Claim 1, from which the balance of the above-listed claims ultimately depend, and only to obviate the Examiner's rejection. Specifically, the Applicants have amended Claim 1 with the subject matter of Claim 10, which the Applicants have now cancelled, without prejudice. In light of the present amendments, the Applicants respectfully submit and strongly urge that Lonza fails to disclose or even suggest a composition for controlling plant and flower moisture transpiration rates comprising each and every element of the present claims, as amended. Specifically, the Applicants submit, and the Examiner does not dispute, that Lonza fails to teach the specific antimicrobials now recited by amended Claim 1. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection to Claims 1 to 9, 11, 12, 28 to 33 and 35 to 37 under 35 USC § 102(b).

Reminder under 37 CFR 1.56 for Joint Inventorship

The Examiner has advised the Applicants of their obligations under 37 CFR § 1.56 to point out the inventor and inventive dates of each claim that was not commonly owned at the time a later invention was made in order for the Examiner to consider the applicability of 35 USC § 103(c). The Applicants duly thank the Examiner for reminding them of their obligations under 37 CFR § 1.56. However, the Applicants respectfully submit to the Examiner that all of the claims currently pending in the present application were commonly owned at the time of filing the present application and remain commonly owned at the time of filing the instant response. Thus, the Applicants request that the Examiner consider the applicability of 35 USC § 103 in the present application in the context of continued common ownership of all claims currently pending.

Rejection under 35 USC § 103(a) over Lonza in view of Doi in view of Frossard

The Examiner has rejected Claims 1, 2, 11 to 18, 31 and 34 under 35 USC § 103(a) as allegedly obvious over Lonza in view of Doi et al (hereinafter "Doi") in view of Forssard et al (hereinafter "Frossard"). Specifically, the Examiner asserts that Lonza teach the use of different biocides in floral preservatives such as quaternary ammonium and fungicide, but Lonza fails to teach the use of sucrose. The Examiner has thus attempted to modify the disclosure of Lonza with that of Doi, which purportedly discloses a process for improving the post-harvest life of cut flowers and promoting bud opening by adding sucrose to a quaternary ammonium solution, and Frossard, which allegedly teaches a liquid medium used for conserving cut flowers containing nutrients, biocides, and citric acid to maintain the pH of the solution between 4 and 4.5. The Applicants respectfully disagree with the finding of obviousness.

The Examiner's attention is directed to the "Amendments" section of the instant paper, in which the Applicants have amended Claim 1, from which the balance of the aforementioned claims ultimately depend, only to obviate the Examiner's rejection. Specifically, the Applicants have amended Claim 1 with the subject matter of original Claim 10, which has now been cancelled, without prejudice. In light of the present amendments, the Applicants respectfully submit that Lonza in view of Doi in view of Frossard neither teach nor suggest a vase-added composition for controlling plant and flower moisture transpiration rates comprising the specific antimicrobials now recited by Claim 1, as amended. Accordingly, reconsideration and withdrawal of the rejection to Claims 1, 2, 11 to 18, 31 and 34 under 35 USC § 103(a) are respectfully requested.

Rejection under 35 USC § 103(a) over Lonza in view of Law

The Examiner has further rejected claims 1, 10, 19 to 21, 31 and 38 to 41 under 35 USC § 103(a) as allegedly obvious over Lonza in view of Law (hereinafter "Law"). Specifically, the Examiner asserts that it would have been obvious to modify the method of Lonza by adding the isothiazolone antimicrobials of Law to the quaternary ammonium compounds disclosed therein. The Applicants respectfully disagree with the Examiner's finding of obviousness. The Applicants wish to direct the Examiner's attention to the

"Amendments" section of the present communication, in which the Applicants have amended Claim 1, from which the balance of the rejected claims ultimately depend, only to obviate the Examiner's rejection. In light of the present amendments, the Applicants respectfully submit and strongly urge to the Examiner that Lonza in view of Law neither teach nor suggest each and every element of the pending claims, as amended. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection to Claims 1, 10, 19 to 21, 31 and 38 to 41 under 35 USC § 103(a).

Rejection under 35 USC § 103(a) over Lonza in view of Law in view of Longley and Frossard

The Examiner has rejected Claims 22, 23 and 25 to 30 under 35 USC § 103(a) as allegedly being unpatentable over Lonza in view of Law as applied to Claims 1, 10, 19 to 21, 31 and 38 to 41 above, in further view of Longley and Frossard. Specifically, the Examiner asserts that it would have been obvious to modify the method of Lonza in view of Law by adding 1,2-benzisothiazolin-3-one antimicrobial to the quaternary compounds of Longley and to maintain a low pH, as purportedly taught by Frossard. The Applicants respectfully disagree with the Examiner's finding of obviousness.

The Applicants wish to direct the Examiner's attention to the "Amendments" section of the instant paper, in which the Applicants have amended Claim 19, from which the balance of the rejected claims ultimately depend, only to obviate the Examiner's rejection. Specifically, the Applicants have cancelled Claims 20 and 21, without prejudice, in favor of incorporation of the subject matter disclosed therein into amended Claim 19. In light of the present amendments, the Applicants respectfully submit and strongly urge that Lonza in view of Law in further view of Longley and Frossard neither teach nor suggest each and every element of the pending claims as amended and specifically the precise forms of the subject antimicrobial now recited in amended Claim 19. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection to Claims 22, 23 and 25 to 30 under 35 USC § 103(a).

Rejection under 35 USC § 103(a) over Lonza in view of Law, Longley and Frossard, in further view of Philosoph-Hadas

The Examiner has rejected Claim 24 under 35 USC § 103(a) as allegedly being unpatentable over Lonza in view of Law, Longley and Frossard as applied to claims 22, 23 and 25-30 in further view of Philosoph-Hadas et al (hereinafter "Philosoph"). Specifically, the Examiner asserts that it would have been obvious to modify the method of Lonza in view of Law, Longley and Frossard by adding the calcium sequestrant of Philosoph to control the bending of the stem of cut flowers. The Applicants respectfully disagree with the Examiner's finding of obviousness.

The Applicants direct the Examiner's attention to the "Amendments" section of the instant paper, in which the Applicants have amended Claim 19, from which Claim 24 directly depends, only to obviate the Examiner's rejection. In light of the present amendments, the Applicants respectfully submit and strongly urge that Lonza in view of Law, Longley and Frossard in further view of Philosoph neither teach nor suggest each and every limitation of

present Claim 24, as amended. Specifically, the references fail to teach or suggest an aqueous composition for controlling plant and flower moisture transpiration, comprising a source of energy and a particular antimicrobial. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection to Claim 24 under 35 USC § 103(a).

CONCLUSION

Attached hereto at the conclusion of this communication is a "Version With Markings To Show Changes Made." Applicants have made an earnest effort to place the present claims in condition for allowance. WHEREFORE, entry of the amendments provided herewith, reconsideration of the claims as amended in light of the Remarks provided, withdrawal of the claims rejections, and allowance of Claims 1 to 41, as amended, are respectfully requested. In the event that issues remain prior to allowance of the noted claims, then the Examiner is invited to call Applicants' undersigned attorney to discuss any remaining issues.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

1. (Once Amended) A composition for controlling plant and flower moisture transpiration, said composition comprising:

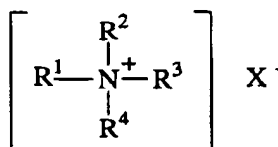
- a) from about 0.5% by weight, of a source of energy;
- d) ~~b)~~ from about 0.05 % by weight, of one or more antimicrobials;
- e) from about 0.98% by weight, of a buffer and
- de) the balance carriers and adjunct ingredients

wherein said antimicrobial is selected from the group consisting of 2-methyl-4-isothiazolin-3-one, 5-chloro-2-methyl-4-isothiazolin-3-one, and mixtures thereof.

~~10. A composition according to Claim 1 wherein said antimicrobial is selected from the group consisting of 2-methyl-4-isothiazolin-3-one, 5-chloro-2-methyl-4-isothiazolin-3-one, and mixtures thereof.~~

19. (Once Amended) An aqueous composition for controlling plant and flower moisture transpiration, said composition comprising:

- a) from about 0.1% by weight, of a source of energy;
- b) from about 1 ppm by weight, of an antimicrobial system, said system comprising:
 - i) from 1% to 99% by weight, of said system, of one or more isothiazolone antimicrobials;
 - ii) from 1% to 99% by weight, of said system, of one or more antimicrobials having the formula:



wherein R¹ and R² are each independently C₈-C₂₀ linear or branched alkyl, benzyl, and mixtures thereof; R³ and R⁴ are each independently C₁-C₄ alkyl, and mixtures thereof; X is an anion of sufficient charge to provide electronic neutrality;

- c) from about 10 ppm by weight, of a buffer; and
- d) the balance carriers and adjunct ingredients;

wherein, in at least one antimicrobial, R¹ and R² are each C₁₂ alkyl; or one of R¹ and R² is a mixture of n-alkyl units; or one of R¹ or R² is benzyl.

~~20. A composition according to Claim 19 wherein at least one antimicrobial comprises R¹ and R² are each C₁₂ alkyl; R³ and R⁴ are each methyl; X is chlorine.~~

~~21. A composition according to Claim 19 wherein at least one antimicrobial comprises R¹ is a mixture of C₁₂-C₁₆ alkyl; R² is benzyl; R³ and R⁴ are each methyl; X is chlorine.~~

31. (Once Amended) A non-liquid composition for controlling plant and flower moisture transpiration, said composition comprising:

- a) from about 75% by weight, of a source of energy;
- b) from about 0.05% by weight, of one or more antimicrobials;
- c) from about 0.01% by weight, of a buffer; and
- d) the one or more adjunct ingredients.